IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;	CIVIL NO. CV03-00385 SOM-LEK (Copyright)
Plaintiff,	**DECLARATION OF MARTIN G. WALKER IN SUPPORT OF PCT'S MOTIONS IN LIMINE NOS. X - Y**
vs.	
HAWAIIAN EXPRESS SERVICE, INC., et al.,	Judge: Hon. Susan O. Mollway
Defendants.	Trial Date: January 24, 2006

DECLARATION OF MARTIN G. WALKER

I, Martin G. Walker, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate to the best of my knowledge and belief:

1. I graduated in 1973 from the Massachusetts Institute of Technology with a Bachelor of Science Degree in Electrical Engineering. I then attended Stanford University where I received a Masters Degree in Electrical Engineering in 1976 and a Doctorate in Electrical Engineering in 1979. After various experiences in the business world I am now a technology consultant and expert witness with more than thirty years of high-level experience in areas such as computer software and internet applications. Focuses of my practice include intellectual property litigation support, computer forensics, and trade secret theft.

2. After formal programming training at MIT and Stanford University, I began writing commercial software in the mid 1970s. I have continued to program throughout my technical career, creating data capture programs (i.e. loading databases and processing data from databases) when I was with Knowledge Networks in 2001. I have continued to write data analysis programs in association with my consulting practice, writing my most recent data analysis program in April, 2005. As a result, I have nearly thirty years of experience in the design of large software projects.

3. Most of these projects involved management of large amounts of data in circumstances where the organization of the data was extremely complex. For instance, I have over twenty-five years of experience in the fields of electronic design automation ("EDA") software systems, circuit simulation, circuit analysis and circuit design. EDA software is used to design semiconductor devices called ICs (Integrated Circuits). As is well known, due to the inexorable advances in the industry, the complexity of these devices (and therefore the data representing the designs) is now immense. Managing the process of IC design thus involves managing massive quantities of data. As a scientist, researcher, author, and innovator in the field of EDA, I have made significant contributions to the development of EDA as an industry. I first began programming nearly forty years ago on early desktop computers.

4. I have been retained by the Post-Confirmation Trust for Fleming Companies, Inc. to examine certain software and related documents and, if possible, render opinions on certain topics in the above-entitled action. During the course of my assignments, I have had ample opportunity to examine and operate the Berry database software at issue in this matter. I have become reasonably familiar with the operation and use of the software.

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5. I note that by 2003, the time of the infringement, the software was ten years old. Software, particularly database software, must be continuously updated to meet changing user requirements and emerging technology. Only in rare circumstances, not applicable here, is there ever any active market for ten-year-old software.

So sworn under penalty of perjury under the laws of the United States of America in Rancho Mirage, California, on December 30, 2005.

Martin G. Walker